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FILED
DEC 17 1973
MICHAEL RODAK, JR., CLERK

No. 73-502

IN THE SUPREME COURT OF THE UNITED STATES

LOUIS STRUMSKIS, Petitioner

V.

THE UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

A PETITION FOR REHEARING

Louis Strumskis, Plaintiff
3230 S.E. 10th Avenue
Ocala, Florida 32670

IN THE SUPREME COURT OF THE UNITED STATES

No. 73-502

LOUIS STRUMSKIS, Petitioner (Pro-se)

V.

THE UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

A PETITION FOR REHEARING UNDER RULE 58

INTRODUCTORY STATEMENT

This Petition for rehearing contains merely one STATEMENT which involves Title 28 U.S.C. 2101 (c) into the 90-day computation of time limit offered a litigant under the laws of this Nation.

Petitioner proceeds with the belief that no Justice or member of this Court is infallible, but rather, subject to error and that an error was indeed uttered by way of that denial to a writ of Certiorari, as rendered on December 3, 1973.

Therefore, this Supreme Court must now lend an ear to the justified grievances found in this Petition, so that this Court may not appear inconsistent with substantial Justice.

Further, may each and every member of this Supreme Court note that this Litigant does not

approach the Court or any member thereof with any manner of threats or scandalous matters.

You will find attached at the rear of this Petition these three Documents:

1. A decree uttered by the Court of Claims on June 20, 1973.

2. A Marion County Sheriff's affidavit attesting to the lack of a criminal record of Mr. Louis Strumskis, the Petitioner pro-se in this Case.

3. A Certificate stating that this Litigant offers forthwith Petition in good faith and not for delay.

STATEMENT

A litigant is entitled and must be encouraged to exhaust the usage of various and concurrent reliefs after a negative judgement in a lower Court, from which that latter decree must then be considered to compute the time limitations into a higher Court, were such a further step necessary.

ARGUMENT

The only defense given by the respondent in his MEMORANDUM filed on November 5, 1973 is the **unclear** and **legally unfounded** statement that the Plaintiff in this Case was entitled only to that motion for a rehearing denied on April 13, 1973, but not to his second and concurrent motion for a new trial, as denied on June 20, 1973 .... from which to compute the 90-day time limitation to a writ of Certiorari as filed by this Petitioner on September 17, 1973. That response merely quoted some vague criminal law.

Listen, a lower Court made available to this Litigant that relief to a new trial and it was legally possible that the same lower Court could have

ALLOWED this same Litigant a re-trial rather than a denial on that June 20, 1973 ORDER.

Were a new trial ALLOWED this Litigant on June 20, 1973, it is also possible that his grievances would have been resolved therein and consequently such a relief would have eliminated any need to approach the Supreme Court for a writ of Certiorari.

Does not the Supreme Court continually recommend that differences be settled in the lower Courts? Then by what manner of thinking or legal foundation would an active, lower-Court Litigant, take to bother the Supreme Court with any extensions of time motions, or any other matters .... if there be no categorical need for such action. The motion for a new trial had to be resolved. The asking for an extension of time in a higher Court while a motion is pending in a lower Court is both irrational and legally untenable.

Therefore, in view of that singular defendant's Statute involved in that one Supreme Court's negative decision filed on December 3, 1973, the Supreme Court has consequently taken to rely upon some vague Criminal Law by which to defeat the Petitioner. It is a common and a lawful escalator to proceed from a denied rehearing to the motion for a new trial and Defendant was void of a legal foundation.

Yes, this Plaintiff did sincerely attempt to settle his grievances in that lower Court, by the seasonable usage of those reliefs offered therein.

"A motion for a new trial, seasonably made, suspends the running of the time within which to file an application for appeal". Chicago, etc. R.Co. V. U.S., 1919, 54 Ct. Cl. 116.

See also: *"Time within which application could*

be made for review in Supreme Court did not begin to run until after disposition of motion for a new trial (sic) seasonably filed and entertained." U.S. V. Seminole Nation, 1937, 57 S. Ct. 283, 299 U.S. 417, 81 L.Ed. 316.

Ultimately, this Supreme Court cannot properly initiate of itself further arguments or defenses not already established by the defendant in his response of November 5, 1973. However, it is now clear to see that the Supreme Court's decision of December 3, 1973 against the Case of Petitioner, was indeed without a legal foundation, as seen clearly in Petitioner's reply filed on November 16, 1973, and therefore unjustly biased to favor the Defendant.

Such gross and unjustified abandonment of the law is at the very least unreasonable and oppressing to the Case of Petitioner.

Truthfully, Ye Justices are not infallible and it is become obvious that Ye Justices must now reconsider and reverse that one oppressing decision as rendered on December 3, 1973.

THE LAW

Title 28 U.S.C. 2101 (c) states in part that ... "a civil action, suit or proceedings before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such Judgement or decree".

In this foundational law, one does not see the specification of relief used, or the various and differing kinds of relief to exhaust, before entering a higher Court.

"The second opinion of Court of Appeals on it's review of order of Federal Trade Commission resolved a genuine ambiguity in the first opinion" ...

... *"so that time within which Certiorari had to be requested dated from second opinion."* F.T.C. V. Colgate Palmolive Co., Mass. 1965, 85 S.Ct. 1035, 380 U.S. 374, 13 L.Ed., 2d 904..... *"If the second Judgement"* .... *"does no more than to restate what has been decided by the first Judgement, the 90-day period within which to apply for Certiorary will start to run from the first Judgement."* ID.

Now then, a rehearing is entirely different from a re-trial. Ye who are lawyers know that. Hence, the motion and arguments presented by this litigant toward that mentioned rehearing and that re-trial in the Court of Claims were necessarily different also because the issues to resolve were fundamentally different. Plaintiff did not cease until he exhausted all pertinent reliefs offered by that Lower Court.

"A Judgement is not final so as to set in motion time for taking an appeal therefrom, until a motion for a new trial, if entertained by the Court, has been disposed of."

U.S. V. Ellicott, Ct. Cl.: 1912, 32 S.Ct. 334, 223 U.S. 524, 56 L.Ed. 535. See Also, Kingman & Co. V. Western Mfg. Co. Neb. 1898, 18 S.Ct. 786, 170 U.S. 675, 42 L.Ed. 1192.

CONCLUSION

As seen in Defendant's two-page RESPONSE of November 5, 1973, the quoting of some vague criminal law is a poor support to defendant's also vague argument. Please see Plaintiff's REPLY filed on November 16, 1973. Therefore, from whence cometh the necessary grounds for that Supreme Court's decision of December 3, 1973??

"In suit in equity defenses not set up in the answer will not be considered". Howes Vs. Nute. C.C.

Mass. 1870 Fed. Cas. No. 6,790.

As provided by Rule 58 (3) this Court should request a reply from the defendant toward an equitable and a full consideration of law involved here, so that his Court may come to understand the pertinence of law which does favor this Petitioner, of course.

Surely, upon an honest review of this Petition by the Supreme Court, the Plaintiff must consequently be allowed to present his grievances by way of a Certiorari review, to be finalized with an oral argument, as provided in Rules 36 and 44, so that this one Court continue to meet and uphold the high standards required of it.

With All Due Regards,

Louis Strumskis, Petitioner

AFFIDAVIT

IN THE SUPREME COURT OF THE UNITED STATES

LOUIS STRUMSKIS, Petitioner (Pro-se)

V.

THE UNITED STATES

No. 73-502

ON PETITION FOR REHEARING
UNDER RULE 58

The Plaintiff, Mr. Louis Strumskis, offers this Petition for a rehearing under rule 58 in good faith and not for delay.

Also, let it be known to all parties concerned that said Plaintiff intends to prosecute such a Case to the fullest extent of the law.

Louis Strumskis

Louis Strumskis, Petitioner
3230 S.E. 10th. Avenue,
Ocala, Florida 32670

Sheriff

DON R. MORELAND

POST OFFICE BOX 387 1987
MARION COUNTY, OCALA, FLORIDA 32670

Sheriff's Office
622-8181
Residence
622-3748

Civil Dept. 622-4630
Jail 622-8282

TO WHOM IT MAY CONCERN:

The records of the Marion County Sheriff's Department do not reflect any criminal charges against LOUIS STRUMSKIS, 3230 S.E. 10th Avenue, Ocala, Florida.

Don Moreland

Sheriff

IN THE UNITED STATES COURT OF CLAIMS

231-68 CHRIS BERG, INC.)
) v. THE UNITED STATES
232-68 LOUIS STRUMSKIS)

Before COWEN, Chief Judge, LARAMORE, Senior Judge, DAVIS, SKELTON, NICHOLS, KASHIWA, KUNZIG and BENNETT, Judges, except that Senior Judge LARAMORE participated only in No. 231-68 in which Judges KUNZIG and BENNETT took no part.

ORDER

These cases come before the court on motions requesting permission to file a motion for reconsideration out of time and a motion for a new trial under Rules 151 and 152 of the Rules of this court and, on consideration thereof,

IT IS ORDERED that said motions be and the same are denied as follows:

231-68 Chris Berg, Inc. Plaintiff's motion requesting permission to file a motion for reconsideration out of time.

232-68 Louis Strumskis. Plaintiff's motion for a new trial under Rules 151 and 152.

BY THE COURT

JUN 20 1973

Chief Judge